IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.454 OF 2006

IN

SUMMARY SUIT NO.1447 OF 2005

Mr.Suresh N. Rasal. ...Plaintiff.

vs.

Mr.Assan Naraindas Golani (since deceased)
through his legal heir Mr.Jagdish A.Golani. ...Defendant.

Mrs.S.A.Dhamale, for Plaintiff.

Mr.R.B.Singh, for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 12th January, 2007.

P.C.:-

1. The suit of the plaintiff is based on a promissory note which according to the plaintiff was signed by the father of the defendant. Thus, the plaintiff is seeking decree against the defendant in his capacity as a legal representative of the father. But in the plaint

there is no statement found to be made by the plaintiff that the defendant is liable because he has inherited from his father the property which is worth more than the suit claim of the plaintiff. Without plaintiff making such a claim, the plaintiff would not be entitled to claim a decree against the legal representative of the original defendant. In any case in the absence of these averments, it cannot be said that there is no defence available to the defendant. The defendant is therefore, entitled to leave to defend the suit. The summons for judgment is disposed of. The defendant is granted unconditional leave to defend the suit. Written statement to be filed within four weeks from today.